



February 15, 2006

ENGROSSED HOUSE BILL No. 1065

DIGEST OF HB 1065 (Updated February 13, 2006 12:16 pm - DI 52)

Citations Affected: IC 15-3.

Synopsis: Pesticide application. Amends the pesticide law and the pesticide use and application law as follows: (1) Provides that \$10 of the annual fee for registering pesticides be used by the office of Purdue pesticide programs for education about pesticides. (2) Increases the annual fee for registering pesticides from \$75 to \$170. (3) Increases the late fee for annual registration of pesticides from \$75 to \$170. (4) Increases the fee for a pesticide business license from \$30 to \$45. (5) Increases the annual fee for an applicator license from \$30 to \$45. (6) Increases the annual fee for registration as a pesticide consultant from \$30 to \$45. (7) Increases the fee for certification as a private applicator from \$10 to \$20. (8) Increases the annual fee for registration as a pesticide dealer from \$30 to \$45. (9) Provides that certain fees currently distributed to Purdue University agriculture programs be used for expenses of the state chemist in carrying out the pesticides law and the pesticide use and application law. (10) Provides that money collected for civil penalties be used by the office of Purdue pesticide programs instead of agricultural extension. (11) Other changes updating the pesticide law.

Effective: July 1, 2006.

Gutwein, Friend, Robertson, Grubb

(SENATE SPONSORS — HEINOLD, NUGENT)

January 4, 2006, read first time and referred to Committee on Agriculture and Rural Development.

January 17, 2006, reported — Do Pass.

January 23, 2006, read second time, ordered engrossed. Engrossed.

January 26, 2006, read third time, passed. Yeas 62, nays 23.

SENATE ACTION

February 1, 2006, read first time and referred to Committee on Energy and Environmental Affairs.

February 14, 2006, reported favorably — Do Pass.

EH 1065—LS 6382/DI 14+



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February 15, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1065

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-3-3.5-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) For ~~the purpose~~
3 **purposes** of defraying expenses connected with the enforcement of this
4 chapter **and educating individuals about the safe and effective use**
5 **of pesticides**, each registrant shall pay an annual, **nonrefundable** fee
6 of ~~seventy-five~~ **one hundred seventy** dollars ~~(\$75)~~ **(\$170)** for each
7 **application for each** pesticide product registered. Each registration
8 shall expire January 1 of each year. All fees collected by the state
9 chemist under this chapter shall be paid to the treasurer of Purdue
10 University by whom they shall be deposited in a special restricted
11 account so designated by the treasurer of the board of trustees of
12 Purdue University. From this account the treasurer shall pay all
13 expenses incurred in carrying out this chapter, including:
14 (1) employment of inspectors, investigators, researchers, analysts,
15 administrators, and clerical and service staff;
16 (2) expenses in procuring samples and printing results of
17 ~~inspection;~~ **inspections;**

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- (3) purchasing supplies, equipment, and services;
- (4) necessary remodeling; ~~and~~
- (5) other expenses of the office of the state chemist; **and**
- (6) the transfer of ten dollars (\$10) from each fee paid under this subsection on an annual basis to the office of Purdue pesticide programs to provide education about the safe and effective use of pesticides.**

The treasurer is not required to use any other funds, except those collected as registration fees, to pay any expenses incurred in the administration of this chapter. The dean of agriculture shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

(b) A registrant that registers or pays an annual fee after December 31 of any year shall pay a late fee of ~~seventy-five~~ **one hundred seventy** dollars ~~(\$75)~~ **(\$170)** as well as the annual fee.

SECTION 2. IC 15-3-3.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. The state chemist, individually or through the state chemist's agent, may do the following:

- (1) Enter any public or private premises, including any vehicle of transport during regular business hours in order to have access to, and to obtain samples of, pesticide products and examine and copy records relating to their **use**, transportation, and sale, subject to this chapter and the rules adopted under this chapter.
- (2) Enter at all reasonable times in or upon any private or public property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 3. IC 15-3-3.5-18.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18.3. (a) Subject to this section, if a person violates this chapter or a rule adopted under this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the person or:

- (1) deny;
- (2) suspend;
- (3) revoke; or
- (4) amend;

the person's registration under this chapter.

(b) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board. The board shall establish a schedule of the civil penalties that may be imposed under subsection (a) by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds

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the following:

- (1) Two hundred fifty dollars (\$250) for a person's first violation.
- (2) Five hundred dollars (\$500) for a person's second violation.
- (3) One thousand dollars (\$1,000) for a person's third violation and each subsequent violation.

~~(c) The state chemist may impose a civil penalty for a person's first violation only after the board has approved the imposition of the civil penalty.~~

~~(d)~~ (c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

~~(e)~~ (d) A proceeding under IC 4-21.5-3 that involves the imposition of a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

~~(f)~~ (e) Money collected for civil penalties imposed under this section shall be credited to the ~~agricultural extension service~~. **office of Purdue pesticide programs**. The money may be used only for the purpose of providing education about pesticides.

SECTION 4. IC 15-3-3.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter:

- (1) "Agricultural commodity" means any plant, or part of a plant, and animals or animal products produced primarily for sale, consumption, propagation, or other use by man or animals.
- (2) "Animal" means all vertebrate and invertebrate species, including man and other mammals, birds, fish, and shellfish.
- (3) "Beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise useful to man.
- (4) "Board" means the Indiana pesticide review board established by IC 15-3-3.5.
- (5) "Certified applicator" means any individual who is certified under this chapter as qualified to use or supervise the use of ~~any restricted use pesticide~~ **pesticides** and has been issued a certificate as evidence of the individual's qualifications.
- (6) "Private applicator" means a certified applicator who uses or supervises the use of ~~any restricted use pesticide~~ **pesticides** for purposes of producing any agricultural commodity on property owned, ~~or rented, or managed~~ by the employer or the applicator, if applied without compensation ~~other than trading of personal services between producers of agricultural commodities~~, on the property of another person.

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(7) "Commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of ~~any restricted use pesticide~~ **pesticides** for any purpose or on any property other than as provided by subdivision (6).

(8) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(9) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(10) "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man, bacteria, virus, or other microorganism on or in living man or other living animals. This term does not include equipment used for the application of pesticides when sold separately from the pesticides.

(11) "Distribute" means to offer for sale, sell, exchange, barter, or otherwise supply or offer to supply a pesticide.

(12) "Environment" includes water, air, land, and all plants and man and other animals living in water, air, or on land and the interrelationships that exist among these.

(13) "Equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized, mechanical, or pressurized power, used to apply any pesticide.

(14) "Fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals, and those on or in processed food, beverages, or pharmaceuticals.

(15) "Insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) "Licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

(A) using any pesticide, including restricted use pesticides; or

(B) making diagnostic inspections or reports to determine

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- 1 infestations of wood destroying pests.
- 2 (17) "Licensed applicator for hire" means any licensed certified
3 commercial applicator who is employed by a licensed pesticide
4 business to use or to supervise the use of any pesticide on the
5 property of another and who has assumed direct responsibility for
6 the use or supervision of the use of pesticides by the business.
- 7 (18) "Licensed public applicator" means a licensed certified
8 commercial applicator who uses or supervises the use of a
9 restricted use pesticide as an employee of a state agency,
10 municipal corporation, or other governmental agency. The term
11 includes a commercial applicator using a pesticide in a potentially
12 hazardous situation or site as determined by the board.
- 13 (19) "Nematode" means invertebrate animals of the phylum
14 nemathelminthes and class nematoda. These are unsegmented
15 round worms with elongated, fusiform, or sac-like bodies covered
16 with cuticle, and inhabiting soil, water, plants, or plant parts.
17 Nematodes may also be called nemas or eelworms.
- 18 (20) "Permit" means a written certificate issued by the state
19 chemist or the state chemist's authorized agent to a private
20 applicator, authorizing the purchase, possession, or use of
21 restricted use pesticides.
- 22 (21) "Person" means any individual, partnership, association,
23 fiduciary, corporation, or any organized group of persons whether
24 incorporated or not.
- 25 (22) "Pest" means:
- 26 (A) any insect, rodent, nematode, fungus, or weed; or
27 (B) any other form of terrestrial or aquatic plant or animal life
28 or virus, bacteria, or other microorganism (except viruses,
29 bacteria, or other microorganisms on or in living man or other
30 living animals) that is declared to be a pest by the
31 administrator of the United States Environmental Protection
32 Agency or by the board.
- 33 (23) "Pesticide" means:
- 34 (A) any substance or mixture of substances intended for
35 preventing, destroying, repelling, or mitigating any pest; or
36 (B) any substance or mixture of substances intended for use as
37 a plant regulator, defoliant, or desiccant.
- 38 (24) "Plant regulator" means any substance or mixture of
39 substances intended, through physiological action, for
40 accelerating or retarding the rate of growth or rate of maturation
41 or for otherwise altering the behavior of plants or the produce of
42 plants. The term does not include substances to the extent that

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they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(25) "Property" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

(26) "Restricted use pesticide" means:

(A) any pesticide classified as restricted by the Administrator of the United States Environmental Protection Agency; or

(B) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests the pesticide is intended to prevent, destroy, control, or mitigate.

(27) "Unreasonable adverse effects on the environment" means an unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(28) "Weed" means any plant which grows where it is not wanted.

(29) "Wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

(30) "Certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 13 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

(31) "Registered pesticide dealer" means any person who distributes any restricted use pesticide.

(32) "Licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(33) "Pesticide consultant" means a person **engaged in the retail sale of pesticides** who:

(A) offers or supplies technical advice to;

~~(B) supervises;~~

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- 1 ~~(C)~~ **(B)** aids; or
 2 ~~(D)~~ **(C)** makes recommendations to;
 3 another person concerning the use of a pesticide as part of
 4 business.
 5 (34) "Pesticide formulation" means a pesticide product comprised
 6 of all active ingredients and inert ingredients.
 7 (35) "Pesticide product" means a pesticide or device offered for
 8 distribution or use, including any labeling.
 9 (36) "Registered technician" means a person who:
 10 (A) is not licensed under this chapter;
 11 (B) has registered with the state chemist; and
 12 (C) is authorized to engage in pesticide use and related
 13 activities under the direct supervision of a licensed and
 14 certified applicator.
 15 (37) "Use" means an act of handling, releasing, or exposing
 16 individuals or the environment to a pesticide. The term includes
 17 the following:
 18 (A) Application or supervision of an application of a pesticide,
 19 including mixing or loading the pesticide.
 20 (B) Storage of pesticides and pesticide containers by the
 21 intended applicator of the pesticides.
 22 (C) Transportation of pesticides and pesticide containers by
 23 the intended applicator of the pesticides.
 24 (D) Disposal of pesticides and pesticide containers by the
 25 intended applicator of the pesticides.
 26 (38) "Licensed pest inspector" means an individual licensed under
 27 this chapter to make diagnostic inspections or reports to
 28 determine infestations of wood destroying pests on the property
 29 of another person and meets the requirements under section 13 of
 30 this chapter.
 31 SECTION 5. IC 15-3-3.6-6 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) A person may not
 33 engage in or profess to engage in the business of:
 34 (1) using a pesticide; or
 35 (2) making diagnostic inspections or reports to determine
 36 infestations of wood destroying pests;
 37 on the property of another for hire at any time without a pesticide
 38 business license issued by the state chemist. The state chemist shall
 39 require an annual license fee of ~~thirty~~ **forty-five** dollars ~~(\$30)~~ **(\$45)** for
 40 each pesticide business license issued.
 41 (b) A pesticide business license must be obtained for each business
 42 location from which pesticide use or application is conducted.

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(c) The application for a license shall be made ~~in writing~~ on a form provided by the state chemist. Each application shall contain information ~~regarding the applicant's qualifications and proposed operations; license category or categories the applicant is applying for; and other information~~ necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the use of pesticides under the category for which the applicant or applicator has applied, and the applicant's or applicator's knowledge of the nature and effect of pesticides the applicant or applicator may apply under the categories. At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any business license.

(f) If:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides on the property of another;

(2) the applicant files evidence of financial responsibility required under section 13 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist shall issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license shall expire January 1 of the year following issue unless it has been **invalidated**, revoked, or suspended earlier by the state chemist. Any surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 13 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 6. IC 15-3-3.6-8.1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.1. (a) A person applying for a license described under section 7, 7.1, or 8 of this chapter must:

- (1) submit an application to the state chemist on a form provided by the state chemist;
- (2) pass the appropriate examination provided under section 5 of this chapter;
- (3) except for a person applying for a licensed public applicator's license, submit a fee of ~~thirty~~ **forty-five** dollars (~~\$30~~) (**\$45**) to the state chemist; and
- (4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) If a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person that applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person that has been issued a license under subsection (b):

- (1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and
- (2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

- (1) expires January 1 of each year; and
- (2) may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a ~~thirty~~ **forty-five** dollar (~~\$30~~) (**\$45**) renewal fee; before January 1.

SECTION 7. IC 15-3-3.6-8.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.3. (a) A person may not act as a pesticide consultant unless the person has registered with the state chemist.

(b) To register with the state chemist as a pesticide consultant, a

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1 person must:

2 (1) submit ~~satisfactory proof to the~~ **an application on a form**
 3 **approved by the** state chemist; ~~that the person is qualified to~~
 4 ~~make recommendations and offer advice concerning the use of~~
 5 ~~pesticides;~~ and

6 (2) ~~except for a person who is a full-time employee of a federal;~~
 7 ~~state; or local government agency;~~ pay an annual fee of thirty
 8 **forty-five dollars (\$45)** to the state chemist.

9 SECTION 8. IC 15-3-3.6-9 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) A private
 11 applicator may not be issued a permit to use a restricted use pesticide
 12 without first complying with the certification requirements, including
 13 passing an examination, determined by the state chemist necessary to
 14 prevent unreasonable adverse effects on the environment, including
 15 injury to the applicator or other persons.

16 (b) Certification standards to determine the person's competency
 17 with respect to the use and handling of the pesticide or class of
 18 pesticides that the private applicator is to be certified to use, shall be
 19 relative to hazards as described in section 5 of this chapter. In
 20 determining these standards, the state chemist shall observe those
 21 standards for private applicator certification provided by the U.S.
 22 Environmental Protection Agency.

23 (c) A fee of ~~ten~~ **twenty** dollars ~~(\$10)~~ **(\$20)** shall be paid to the state
 24 chemist by each person applying for a certification as a private
 25 applicator under this section. If the state chemist does not certify the
 26 private applicator under this section, the state chemist shall inform the
 27 applicant of the reasons the applicant was not certified and return the
 28 applicant's application fee. The state chemist may require additional
 29 knowledge to ensure that applicators continue to meet the requirements
 30 of changing technology and to assure a continuing level of competence
 31 and ability to use pesticides safely and properly.

32 SECTION 9. IC 15-3-3.6-11 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. All fees collected
 34 by the state chemist under this chapter shall be paid to Purdue
 35 University and deposited in a special restricted account so designated
 36 by the treasurer of the board of trustees of Purdue University. From this
 37 account the treasurer shall pay the expenses incurred in carrying out
 38 this chapter, including employment of inspectors, investigators,
 39 researchers, analysts, administrators and clerical and service staff and
 40 expenses, in conducting and reporting inspections and investigations,
 41 purchasing supplies and services, providing necessary facilities and
 42 remodeling and other expenses of ~~Purdue University agricultural~~

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1 programs authorized by law and in support of the purposes of this
 2 chapter: **the office of the state chemist.** The treasurer is not required
 3 to use any other funds, except those collected under this chapter, to
 4 defray any expenses incurred in the administration of this chapter. The
 5 dean of agriculture shall make an annual financial report to the
 6 governor showing total receipts and expenditures of all fees received
 7 under this chapter.

8 SECTION 10. IC 15-3-3.6-12 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Each person
 10 who is a restricted use pesticide dealer shall register with the state
 11 chemist. Registration shall be required for each business location
 12 distributing restricted use pesticides and shall be accomplished on a
 13 form to be provided by the state chemist. Each registration shall expire
 14 January 1 following issuance unless the registration is renewed
 15 annually. A registration fee of ~~thirty~~ **forty-five** dollars (~~\$30~~) (**\$45**) shall
 16 accompany the application.

17 (b) This section does not apply to:

- 18 (1) a licensed pesticide business that sells pesticides only as an
- 19 integral part of its pesticide application service when the
- 20 pesticides are dispensed only through equipment used for this
- 21 pesticide application;
- 22 (2) any federal, state, county, or municipal agency that provides
- 23 pesticides only for its own programs; or
- 24 (3) any person who is the final purchaser of a pesticide for
- 25 application to property or property rights owned, leased, or
- 26 otherwise acquired by the person.

27 (c) Each registered pesticide dealer is responsible for the acts of
 28 each person employed by the dealer in the solicitation and sale of
 29 restricted use pesticides and all claims and recommendations for use
 30 of pesticides. The dealer's registration shall be subject to ~~denial,~~
 31 ~~suspension, or revocation after a hearing~~ **sections 14 through 14.5 of**
 32 **this chapter** for any violation of this chapter whether committed by the
 33 dealer, or by the dealer's officer, agent or employee.

34 SECTION 11. IC 15-3-3.6-13 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The state
 36 chemist may not issue a pesticide business license or a pest inspector
 37 license until the applicant for the license has furnished a surety bond,
 38 a certificate of liability insurance in force, or a certificate of financial
 39 responsibility to protect persons who may suffer legal damages as a
 40 result of the pesticide operations or pest inspections of the applicant.
 41 If the surety bond, liability insurance, or financial responsibility is not
 42 maintained at all times during the licensing period, the pesticide

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business license, pest inspector license, and any associated commercial applicator licenses are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is brought into compliance and the applicant's license is reinstated by the state chemist.

(b) Nothing in this chapter relieves any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules ~~of the state chemist~~ **adopted under this chapter.**

SECTION 12. IC 15-3-3.6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. Subject to section 14.5 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, **registration**, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, ~~or permit~~, **registration, or certification** has committed any of the following acts, each of which is a violation of this chapter:

- (1) Made false or fraudulent claims through any media misrepresenting the effect of pesticides or methods to be utilized.
- (2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.
- (3) Used known ineffective or improper pesticides.
- (4) Operated faulty or unsafe equipment.
- (5) Operated in a careless or negligent manner.
- (6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist.
- (7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports and supply information when required.
- (8) Made false or fraudulent records, invoices, or reports.
- (9) Engaged in or professed to be engaged in the business of:
 - (A) using a pesticide; or
 - (B) making a diagnostic inspection to determine infestations of a wood destroying pest;
 for hire on the property of another without having a pesticide

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business license.

(10) Used a restricted use pesticide without having a ~~licensed an applicator or a licensed certified operator~~ **who is licensed or permitted under this chapter** in direct supervision.

(11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.

(13) Aided or abetted a person to evade the provisions of this chapter, conspired with a person to evade the provisions of this chapter, or allowed a license, permit, registration, or certification to be used by another person.

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.

(15) Impersonated any federal, state, county, or city inspector, investigator, or official.

(16) Knowingly purchased or used a pesticide that was not registered under IC 15-3-3.5.

(17) Failed to continuously maintain financial responsibility required under section 13 of this chapter.

SECTION 13. IC 15-3-3.6-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. (a) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board.

(b) The board shall establish a schedule of civil penalties that may be imposed under section 14 of this chapter by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

(1) For a violation committed by a person who is required to be certified as a private applicator, one hundred dollars (\$100).

(2) For a violation by a person who is not described in subdivision (1), the following:

(A) Two hundred fifty dollars (\$250) for a person's first violation.

(B) Five hundred dollars (\$500) for a person's second violation.

(C) One thousand dollars (\$1,000) for a person's third violation and each subsequent violation.

(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) A proceeding under IC 4-21.5-3 that involves the imposition of

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1 a civil penalty may be consolidated with any other proceeding
 2 commenced under IC 4-21.5 to enforce this chapter or the rules
 3 adopted under this chapter.

4 (e) Money collected for civil penalties imposed under section 14 of
 5 this chapter shall be credited to the ~~agricultural extension service~~
 6 **office of Purdue pesticide programs**. The money may be used only
 7 for the purpose of providing education about pesticides.

8 SECTION 14. IC 15-3-3.6-15 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) Any person **who**
 10 **is regulated under section 14, 14.5, or 16 of this chapter and is**
 11 aggrieved by any action ~~of~~ **taken by** the state chemist may obtain a
 12 review by filing with the board, within thirty (30) days notice of the
 13 action, a written petition asking that the action of the state chemist be
 14 set aside. A copy of the petition shall be furnished to the state chemist
 15 by the board within seven (7) days of filing. Within fifteen (15) days
 16 thereafter the state chemist shall certify and file with the board a
 17 transcript of any record pertaining thereto, including a transcript of
 18 evidence received.

19 (b) Whenever a hearing is provided for or authorized to be held by
 20 the board, the board may designate a person or persons as its agents or
 21 representatives to conduct such hearings. Such agents or
 22 representatives shall conduct such hearings in the manner provided by
 23 IC 4-21.5-3.

24 (c) The board shall, after hearing the appeal, have jurisdiction to
 25 affirm, set aside, or modify the action of the state chemist, except that
 26 the findings of the state chemist as to the facts, supported by the
 27 substantial evidence, shall be conclusive.

28 (d) Any person aggrieved by any action of the board may obtain a
 29 review under IC 4-21.5-5.

30 SECTION 15. IC 15-3-3.6-17 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. The state chemist
 32 may request issuance of subpoenas to compel the attendance of
 33 witnesses or the production of books, documents and records anywhere
 34 in the state in any **authorized investigation or** hearing affecting the
 35 authority or privilege granted by a license, certificate, registration, or
 36 permit issued under this chapter.

37 SECTION 16. IC 15-3-3.6-18 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) The state
 39 chemist may enter upon any public or private property at reasonable
 40 times, in order to do the following:

- 41 (1) Observe the use and application of a pesticide.
- 42 (2) Inspect any equipment subject to this chapter.

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1 (3) Inspect and sample property actually or reported to be exposed
2 to pesticides.

3 (4) Inspect storage or disposal areas.

4 (5) Inspect or investigate complaints of injury to humans or
5 property.

6 (6) Sample pesticides being used or to be used.

7 **(7) Inspect and obtain copies of pesticide sale, distribution,**
8 **purchase, use, storage, and disposal records.**

9 (b) If the state chemist is denied access to any property for the
10 purposes set forth in this chapter, the state chemist may, upon showing
11 a need, apply to any court of competent jurisdiction for a search
12 warrant authorizing access to the property for said purposes. The court
13 may, upon such application and after finding a need, issue the search
14 warrant for the purposes requested.

15 (c) Each prosecuting attorney to whom any violation of this chapter
16 is reported may institute and prosecute the violation in a court of
17 competent jurisdiction of that county without delay. The state chemist
18 may apply for and the court grant a temporary or permanent injunction
19 restraining any person from violating or continuing to violate this
20 chapter or any rule adopted under this chapter notwithstanding the
21 existence of other remedies at law. The injunction may be issued
22 without bond.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1065, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GUTWEIN, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1065, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1065 as printed January 18, 2006.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 0.

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